

## REMARKS

Claims 1 and 3-11 remain in the application. Claims 1 and 3 have been amended and claims 4-11 have been added in order to more clearly define applicants' invention. No new matter has been introduced by the amendments.

The Examiner has requested a new title and a revised "Summary of Invention" section. He has also objected to claim 3, and has rejected original claims 1-3 under 35 U.S.C. § 103(a) as being unpatentable over Lieben et al. in view of Zimgibl et al. These objections are traversed and reconsideration is respectfully requested in view of the foregoing amendments and following remarks.

The title has been amended. Further, claim 3 has been amended to correct the informality noted by the Examiner. The Summary section has been shortened, but the deletion of text from this section is made without any intention to abandon any subject matter described therein, nor to create any estoppels regarding the scope and breadth of the claims, but merely to advance prosecution of the application.

Regarding the rejection, the claims as now presented, recite a system for and method of which utilized an automated, speaker-independent speech recognition algorithm to process the audio response given by a respondent and inferring from such audio response the level of capability of the respondent and whether the respondent understands how to interact with the automated, telephonic speaker-independent speech recognition application. It is submitted that the references cited and applied by the Examiner do not teach the claimed invention.


Lieben describes control of a voice activated telephone (e.g., a hands free cell phone). A user can press a key/say a number to dial, or press a key/say a command to otherwise control the phone. Note that the user must press a key or say "Help" to hear instructions on how to use the menus/phone. This is not drawing an inference from a spoken response from the respondent that the user needs help, i.e., results of a speaker-independent speech recognition algorithm indicating that the user's response was out of bound or could not be recognized.

Zirngibl is a method/system for delivering information in databases to someone in audio format. So, for example, it could read the value of a stock and a total portfolio in a financial database, convert these values to audio, and call the investor to read how much the stock changed and how this impacted his/her portfolio. There is no mention of speech recognition in the reference – just entering commands with touch-tone and creating audio files from database text using text-to-speech, i.e., speech generation. Zirngibl thus is about accessing personalized information in databases, creating digital audio versions of this information, having custom options for the audio, and broadcasting it over the phone. There is no suggestion of speech recognition, nor dynamic dialogs to train a user. Thus, the teachings of Zirngibl do not overcome the deficiencies of the Lieben reference.

It is submitted that claims 1 and 3-11 are now in condition for allowance. An early and favorable action thereon is therefore earnestly solicited. Should any fees be due, or any overpayments made regarding this application, please apply any charges or credits to Deposit Account 50-1133.

Respectfully submitted,

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